

Maryland Judicial Ethics Committee

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Published Opinion Unpublished Opinion Unpublished Letter of Advice

Retired Judge Subject to Recall May Participate in Ecclesiastical Proceedings Involving Annulments of Marriages

A retired judge, who is temporarily recalled from time to time pursuant Art. IV, § 3A of the Maryland Constitution, has requested an opinion as to the extent to which, if at all, he may participate, without remuneration, in certain ecclesiastical proceedings involving requests for the annulment of marriages under canon law. The process at issue involves conducting investigations, making findings of fact, and forwarding recommendations as to requested annulments to Church authorities – much as a Domestic Relations Master functions in our civil courts. Specifically, the judge inquires: “Can I continue to sit as a retired judge while I act as an Advocate? As an Ecclesiastical Law Clerk? As a Diocesan Judge?”

For the reasons that follow the Committee believes that the retired judge may do so. [Opinion Request No. 1973-08 (unpublished)] (issued July 30, 1973) concluded that “the function of the Advocate could best be performed by a member of the Bar and not by a member of the judiciary.” The Committee has carefully reconsidered the issue and is of the opinion that this previous position should be reversed. The crucial point is that the ecclesiastical proceeding is totally independent of the civil proceeding. Ecclesiastical annulments have no legal significance in the civil law, whether rendered prior to, or subsequent to, civil divorce.

The Committee, therefore, finds no conflict and ethical objection to a judge continuing to sit as a substitute judge while participating in annulment proceedings within his archdiocese.